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*Alternative Investment and Emerging Markets*

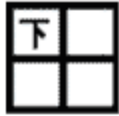
## **GAIM CAYMAN 2008**

### **Implications for Cayman after sub-prime fund collapses**

**David Mapley  
Shimoda Capital Advisors Limited  
Cayman Islands**

**[www.shimoda-ltd.com](http://www.shimoda-ltd.com)**

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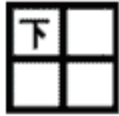
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5. Reinforcing Cayman status
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# 1). Introduction

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## 1. Regular fund sector collapses

- Asia 1997
- Russia 1998
- Dot-com 2001
- Sub-prime 2007

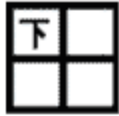
## 2. Cayman – 5<sup>th</sup>. biggest fund jurisdiction

## 3. Mutual funds mainstream, hedge funds mystical...

## 4. Banks/Prime brokers provide funding

## 5. “tall poppy” syndrome

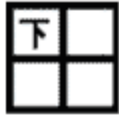
## 6. Global recession and fiscal deficits



## **2). “10 Commandments”**

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- 1. What they were – establish principal office outside USA  
Income Tax Regulations sections 1.864-2(c)(2)(iii)**
- 2. What they did – kept offshore funds offshore**
- 3. US Treasury Secretary pragmatism – relaxed rules  
August 1997, President Clinton’s Taxpayer Relief Act of 1997**
- 4. Shortage of skilled personnel – US/EEC depth  
CITCO, HSBC/Bank of Bermuda set up in the USA**
- 5. Complacency – can you find Cayman on a map??**

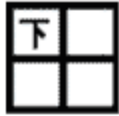


## **3). US Federal Court rulings**

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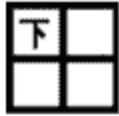
- 1. Texas Professor Westbrook**
- 2. Sub-prime fund collapses – Bear Stearns aftermath**
- 3. Chapter 15 protection filings**  
new chapter added to the Bankruptcy Code by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005
- 4. Center of Main Interest (“COMI”)**
- 5. What the US judges said...**

Investors should ensure that the offshore fund into which they intend to invest is not going to be judged to have its COMI in the USA/UK etc., but rather the jurisdiction of their choice/understanding, and retain full regulatory and status benefits of that jurisdiction.



## **4). Here cometh the tax man..?**

- 1. Global recession and fiscal deficits**
- 2. Unpopular offshore money, easy targets**
- 3. “if it moves tax it!!!”**
  - New York State and NBA basketball games**
  - Wembley 2010 and European Champions League**
  - Liechtenstein**
- 4. If the US courts deny offshore COMI, can the IRS tax??**



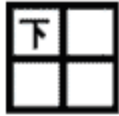
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## **5). Re-inforcing Cayman status**

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- 1. Transactional management**
- 2. Directors (non-boiler-plate..)**
- 3. Transactional process**
- 4. Board meetings**
- 5. Bank account administration**
- 6. Admin, accounting, staffing, office etc..**



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## **6). Implications for Cayman**

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- 1. Need for more qualified personnel in Cayman**
- 2. Office space demand**
- 3. Local bank accounts**
- 4. Qualified & experienced local directors**
- 5. Local service providers**
- 6. Cost-benefit analysis – don't run the gauntlet...**